

REMARKS

In response to the Office Action mailed December 15, 2006, Applicants amended claim 15. Claims 1-33 are pending.

The Examiner withdrew claims 22-33 from consideration, stating that “[n]ewly submitted claims 22-33 are directed to an invention that is independent or distinct from the invention originally claimed . . .” and that “[s]ince applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits.” (Office Action, p. 2.) But, claims 22-27 correspond to original claims 3-8, and claims 28-33 include limitations recited in original claims 9-14. Accordingly, Applicants ask that the Examiner reconsider the withdrawal of claims 22-33 from consideration, and that the Examiner examine these claims. Applicants believe claims 22-33 are in condition for allowance.

The Examiner objected to claim 15. Applicants amended claim 15 to obviate this objection, so the objection should be withdrawn.

The Examiner rejected claims 15-21 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,331,166 (“Burbank”) or under 35 U.S.C. § 103(a) as being unpatentable over Burbank in view of U.S. Patent No. 5,649,547 (“Ritchart”). Claims 15-21 cover methods that include causing rotation of a stylet along an axis of the stylet by engagement between a part of a stylet block and a housing of a medical instrument. Burbank describes a cutting element 20 that is characterized by the Examiner as a stylet block. (Office Action, p. 3.) But, cutting element 20 is attached to a rod 32 which extends out of housing 28 rather than engaging housing 28. (Burbank, col. 5, lines 35-62.) Therefore, engagement between cutting element 20 and housing 28 does not cause rotation of a stylet. Ritchart does not remedy the deficiencies of Burbank. Thus, neither Burbank nor Ritchart, alone or in combination, discloses or suggests the methods covered by claims 15-21. Further, there is no suggestion to combine these references to provide such methods, and, even if the references were combined, the result would not be the methods covered by claims 15-21. Accordingly, Applicants request reconsideration and withdrawal of the rejection of claims 15-21.

The Examiner rejected claims 1-14 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,368,045 ("Clement") in view of U.S. Patent No. 5,197,484 ("Kornberg"), Clement in view of Kornberg and further in view of U.S. Patent No. 5,921,943 ("Kass"), or Clement in view of Kornberg and further in view of U.S. Patent No. 5,394,887 ("Haaga").

Claims 1-14 cover medical instruments including a stylet configured such that axial movement of the stylet from a retracted position to an extended position causes rotation of the stylet. The Examiner conceded that Clement does not disclose a medical device with a stylet configured to rotate when moved from a retracted position to an extended position. (Office Action, p. 6.) Kornberg does not remedy the deficiencies of Clement. Kornberg discloses a device with a stylet 58 coaxially received by a cannula 54. (Kornberg, FIGS. 11-13 and col. 8, line 63 – col. 10, line 59.) Cannula 54 rotates when the device is actuated, (id., col. 14, line 45 – col. 15, line 15) but stylet 58 is fixed in place by pin member 101. (Id., col. 9, lines 44-52.) Neither Kass nor Haaga cure the deficiencies of Clement and Kornberg.

None of Clement, Kornberg, Kass and Haaga, alone or in combination, discloses or suggests the medical instruments covered by claims 1-14. There is no suggestion to combine these references to provide the medical devices covered by these claims, and, even if the references were combined, the result would not be the medical devices covered by claims 1-14. Accordingly, Applicants request reconsideration and withdrawal of the rejection of claims 1-14.

Applicants believe the application is in condition for allowance and request such action.

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No fees are believed to be due. Please apply any charges or credits to deposit account 06-1050, referencing attorney docket number 01194-824001.

Respectfully submitted,

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